

Senate Bill No. 1480

Passed the Senate August 27, 2012

Secretary of the Senate

Passed the Assembly August 23, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 4004 and 4006 of, to amend, repeal, and add Sections 4005, 4007, and 4008 of, and to add Sections 4013, 4014, and 4155 to, the Fish and Game Code, relating to trapping.

LEGISLATIVE COUNSEL'S DIGEST

SB 1480, Corbett. Trapping.

(1) Existing law, except as specified, requires every person, other than a fur dealer, who traps fur-bearing mammals or nongame mammals, designated by the Fish and Game Commission, or who sells raw furs of those mammals, to have a trapping license from the Department of Fish and Game. Certain persons taking mammals injurious to growing crops or other property are exempted from the trapping license requirement, except those persons providing trapping services for profit are required to obtain a trapping license from the department.

This bill, commencing July 1, 2013, would establish 2 classes of trapping licenses. The bill would authorize a person who has complied with all applicable licensing and license renewal requirements to trap wildlife for recreation or fur to be issued a class I trapping license. The bill, commencing July 1, 2013, would authorize specified persons trapping wildlife for a profit be issued a class II trapping license. The bill, commencing July 1, 2013, would require the department to publish a list of class II trapping licensees on its Internet Web site. The bill would authorize the commission to issue a formal warning or suspend a license when a licensee is found, after a duly noticed hearing, to have published inconsistent information on wildlife diseases, as specified.

The bill would require the commission to establish a base fee for a class II trapping license, in an amount sufficient to recover all reasonable administrative, implementation, and enforcement costs of the department and commission relating to the license, and would require the commission to implement this fee structure on or before July 1, 2013. The bill, commencing July 1, 2013, would make available, upon appropriation by the Legislature, revenues of those class II trapping license fees to fund

reimbursement of the department and commission for the reasonable costs of the administration, implementation, and enforcement of provisions of law relating to class II trapping licenses and of regulations adopted pursuant to those provisions.

The bill, commencing July 1, 2013, would require a class II trapping licensee to make a reasonable effort, as defined, to determine whether dependent young are present within a home or business premise and to prevent orphaning young animals as a consequence of trapping and killing the mother. The bill, commencing July 1, 2013, would further require class II trapping licensees to provide clients with a written contract, containing prescribed information, prior to setting traps.

(2) Existing law, except as expressly provided, makes any violation of the Fish and Game Code, or any rule, regulation, or order made or adopted under that code, a misdemeanor. Existing law makes certain actions relating to trapping unlawful.

The bill also would make it unlawful to kill any trapped mammal by listed methods or to solicit trapping services business from the public for reasons of health or safety pursuant to specified laws. The bill also would prohibit the trapping of bats, except where expressly authorized under specified circumstances. By specifying these new Fish and Game Code violations, thereby defining new crimes, this bill would impose a state-mandated local program.

(3) Existing law, except as specified, prohibits the taking or possession of nongame mammals, as defined. Existing law authorizes the department to enter into cooperative agreements with state and federal agencies for the purpose of controlling harmful nongame mammals.

This bill would authorize the department to enter into cooperative agreements with a special district or a state or local agency having responsibility for levee maintenance for the purpose of controlling nongame mammals to maintain irrigation, water supply, drainage, and flood control works.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 4004 of the Fish and Game Code is amended to read:

4004. It is unlawful to do any of the following:

- (a) Use a trap with saw-toothed or spiked jaws.
- (b) Use or sell leghold steel-jawed traps with a spread of 5 ½ inches or larger without offset jaws.
- (c) Use steel-jawed traps larger than size 1 ½ or with a spread larger than 4 ⅞ inches for taking muskrat.
- (d) Set or maintain traps which do not bear a number or other identifying mark registered to the department or, in the case of a federal, state, county, or city agency, bear the name of that agency, except that traps set pursuant to Section 4152 or 4180 shall bear an identifying mark in a manner specified by the department. No registration fee shall be charged pursuant to this subdivision.
- (e) Fail to visit and remove all animals from traps at least once daily. If the trapping is done pursuant to Section 4152 or 4180, the inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.
- (f) (1) Use a steel leghold trap with a spread exceeding 7 ½ inches or conibear killer-type trap that is larger than 6 inches by 6 inches, unless partially or wholly submerged in water. Unless prohibited by the department as a permit condition, a lawfully set conibear killer-type trap that is 10 inches by 10 inches or less may be set in a managed wetland area.
- (2) Any killer-type trap set on publicly owned land or land expressly open to public use shall be posted with a sign containing the following language in lettering that is a minimum of three inches high and visible from a distance of 100 feet: Danger! Keep Dogs Out! Lethal Traps Set for Wildlife.
- (g) Set or maintain steel leghold traps within 30 feet of bait placed in a manner or position so that it may be seen by any soaring bird. As used in this subdivision, “bait” includes any bait composed of mammal, bird, or fish flesh, fur, hide, entrails, or feathers.
- (h) Set or maintain steel leghold traps with a spread of 5 ½ inches or larger without a tension device.
- (i) Kill any trapped mammal in accordance with this section by intentional drowning, injection with any chemical not sold for the

purpose of euthanizing animals, or thoracic compression, commonly known as chest crushing. This subdivision shall not be construed to prohibit the use of lawfully set conibear traps set partially or wholly submerged in water or set in a managed wetland habitat area for beaver or muskrat or the use of lawfully set colony traps set in water for muskrat.

(j) Solicit trapping business from the public for reasons of health or safety or any reason other than damage to crops or property under a class II license, pursuant to Section 4152, 4180, or 4011.

(k) (1) Trap bats, except that nets may be used when necessary for nonlethal protection of property damage or for protection of human health or safety. Nets and exclusion are the only lawful methods of removing bats from a structure. Except as provided for in paragraph (2), bats may be excluded only outside of the periods during which nonflying young are present and when bats are in torpor or hibernation. This subdivision shall not affect a person possessing a scientific collector's permit, pursuant to Section 1002 or 2081.

(2) Bats may be excluded to protect human health or safety. If nonflying young bats will die within the structure as a result of exclusion, or if the bats are in torpor or hibernation, then the owner may only exclude those bats in accordance with both of the following:

(A) If there are holes or cracks in a structure that allow bats to enter the human-occupied interior area of the structure, it is the responsibility of a property owner, designated agent, or licensee to seal or screen or otherwise close these holes to prevent bats from entering the human-occupied interior area of the structure. If the property owner, designated agent, or licensee is unable to seal, screen, or otherwise close the holes or cracks that allow bats to enter the human-occupied interior area of the structure, the property owner, designated agent, or licensee shall contact the nearest regional office of the department prior to taking any action to exclude the bats.

(B) If a property owner, designated agent, or licensee contacts a regional office of the department to report that bats are entering the human-occupied interior area of the structure and is unable to seal those access points that allow bats entry, the department may refer the party that contacts the department to an employee with specialized knowledge of bats. The department may request that

the property owner, designated agent, or licensee grant permission for a department employee to enter the affected structure to identify the species of bat, whether the bat has protected status, the size of the colony, and other factors that may help the department reduce the threat of death to a protected species of bat as a result of the exclusion. The department shall allow the exclusion of bats when preventing bats from entering the human-occupied interior area of the structure would impose a significant burden on the owner of the structure. The department may prohibit the exclusion of bats if preventing bats from entering the human-occupied interior area of the structure would not impose a significant burden on the owner of the structure.

(3) For purposes of this subdivision, the following terms have the following meanings:

(A) “Exclusion” means a method of allowing an animal to leave an area but not return.

(B) “Protection of human health or safety” means preventing direct human contact with bats within any structure.

(C) “Torpor or hibernation” means a period in which the consistent weekday temperature remains consistently under 50 degrees Fahrenheit for seven consecutive days except as otherwise authorized by the department.

SEC. 2. Section 4005 of the Fish and Game Code is amended to read:

4005. (a) Except as otherwise provided in this section, every person, other than a fur dealer, who traps fur-bearing mammals or nongame mammals, designated by the commission or who sells raw furs of those mammals, shall procure a trapping license. “Raw fur” means any fur, pelt, or skin that has not been tanned or cured, except that salt-cured or sun-cured pelts are raw furs.

(b) The department shall develop standards that are necessary to ensure the competence and proficiency of applicants for a trapping license. No person shall be issued a license until he or she has passed a test of his or her knowledge and skill in this field.

(c) Persons trapping mammals in accordance with Section 4152 or 4180 are not required to procure a trapping license except when providing trapping services for profit.

(d) Raw furs taken by persons providing trapping services for profit shall not be sold.

(e) The license requirement imposed by this section does not apply to any of the following:

(1) Officers or employees of federal, county, or city agencies or the department, when acting in their official capacities, or officers or employees of the Department of Food and Agriculture when acting pursuant to the Food and Agricultural Code pertaining to pests or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

(2) Structural pest control operators licensed pursuant to Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code, when trapping rats, mice, voles, moles, or gophers.

(3) Persons and businesses licensed or certified by the Department of Pesticide Regulation pursuant to Chapter 4 (commencing with Section 11701) and Chapter 8 (commencing with Section 12201) of Division 6 of, and Chapter 3.6, (commencing with Section 14151) of Division 7 of, the Food and Agricultural Code, when trapping rats, mice, voles, moles, or gophers.

(f) Except for species that are listed pursuant to Chapter 1.5 (commencing with Section 2050) of Division 3 or Chapter 8 (commencing with Section 4700), nothing in this code or regulations adopted pursuant thereto shall prevent or prohibit a person from trapping any of the following animals:

- (1) Gophers.
- (2) House mice.
- (3) Moles.
- (4) Rats.
- (5) Voles.

(g) Notwithstanding Section 12156, the commission may issue a formal warning or suspend a license when a licensee is found, after a duly noticed public hearing, to have published information about wildlife diseases that is inconsistent with the information about wildlife diseases published by the federal Centers for Disease Control and Prevention or by the department. The commission may consider other sources of information as appropriate.

(h) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute,

that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 4005 is added to the Fish and Game Code, to read:

4005. (a) Except as otherwise provided in this section, every person, other than a fur dealer, who traps fur-bearing mammals or nongame mammals, designated by the commission or who sells raw furs of those mammals, shall procure a trapping license. “Raw fur” means any fur, pelt, or skin that has not been tanned or cured, except that salt-cured or sun-cured pelts are raw furs.

(b) The department shall develop standards that are necessary to ensure the competence and proficiency of applicants for a trapping license. No person shall be issued a license until he or she has passed a test of his or her knowledge and skill in this field.

(c) Persons trapping mammals in accordance with Section 4152 or 4180 are not required to procure a trapping license except when providing trapping services for profit.

(d) (1) A person who has complied with all applicable licensing and license renewal requirements to trap wildlife for recreation or fur may be issued a class I trapping license.

(2) A person who has passed the trapping license test established by the department in 2004, or the most recent test developed for persons trapping depredating wildlife for a profit in accordance with Section 4152 or 4180 and complied with all applicable license renewal requirements, may be issued a class II trapping license. The department shall publish at least annually on the Internet Web site of the department, in the manner it deems appropriate, a list of class II licensee that includes each licensee’s name, permanent trap number, and business name.

(3) A trapping license shall be renewed only for the category of license that is currently possessed.

(e) Raw furs taken by persons providing trapping services for profit shall not be sold.

(f) The license requirement imposed by this section does not apply to any of the following:

(1) Officers or employees of federal, county, or city agencies or the department, when acting in their official capacities, or officers or employees of the Department of Food and Agriculture when acting pursuant to the Food and Agricultural Code pertaining to pests or pursuant to Article 6 (commencing with Section 6021)

of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

(2) Structural pest control operators licensed pursuant to Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code, when trapping rats, mice, voles, moles, or gophers.

(3) Persons and businesses licensed or certified by the Department of Pesticide Regulation pursuant to Chapter 4 (commencing with Section 11701) and Chapter 8 (commencing with Section 12201) of Division 6 of, and Chapter 3.6, (commencing with Section 14151) of Division 7 of, the Food and Agricultural Code, when trapping rats, mice, voles, moles, or gophers.

(g) Except for species that are listed pursuant to Chapter 1.5 (commencing with Section 2050) of Division 3 or Chapter 8 (commencing with Section 4700), nothing in this code or regulations adopted pursuant thereto shall prevent or prohibit a person from trapping any of the following animals:

- (1) Gophers.
- (2) House mice.
- (3) Moles.
- (4) Rats.
- (5) Voles.

(h) Notwithstanding Section 12156, the commission may issue a formal warning or suspend a license when a licensee is found, after a duly noticed public hearing, to have published information about wildlife diseases that is inconsistent with the information about wildlife diseases published by the federal Centers for Disease Control and Prevention or by the department. The commission may consider other sources of information as appropriate.

(i) This section shall become operative on July 1, 2013.

SEC. 4. Section 4006 of the Fish and Game Code is amended to read:

4006. (a) A class I trapping license shall be issued as follows:

(1) To any resident of this state over the age of 16 years upon payment of a base fee of forty-five dollars (\$45), as adjusted under Section 713.

(2) To any resident of this state under the age of 16 years upon payment of a base fee of fifteen dollars (\$15), as adjusted under Section 713.

(3) To any person not a resident of this state upon payment of a base fee of two hundred twenty-five dollars (\$225), as adjusted under Section 713.

A license shall not be issued to a nonresident if the state in which he or she resides does not provide for issuance of a nonresident trapping license to California residents. Also, a nonresident issued a license under this subdivision may take only those species, and may take or possess only that quantity of a species that a resident of California may take or possess under a nonresident trapping license or permit in the state of residence of that nonresident.

(b) (1) The commission shall establish a base fee for a class II trapping license, in an amount sufficient to recover all reasonable administrative, implementation, and enforcement costs of the department and commission relating to the license and shall implement this fee structure on or before July 1, 2013. The fee imposed pursuant to this subdivision shall be adjusted pursuant to Section 713. A fee for a class II license issued prior to the implementation of the class II fee structure required by this subdivision shall be governed by the fee structure of subdivision (a).

(2) Revenues of the license fees imposed pursuant to paragraph (1) shall be available, upon appropriation by the Legislature, to fund reimbursement of the department and commission for the reasonable costs of the administration, implementation, and enforcement of the provisions of this code relating to class II trapping licenses and of regulations adopted pursuant to those provisions.

SEC. 5. Section 4007 of the Fish and Game Code is amended to read:

4007. (a) A trapping license authorizes the person to whom it is issued to take, during the open season, fur-bearing mammals and nongame mammals for a term of one year from July 1st, or if issued after the beginning of that term, for the remainder of the term and to sell the raw fur of these mammals.

(b) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 4007 is added to the Fish and Game Code, to read:

4007. (a) A class I trapping license authorizes the person to whom it is issued to take, during the open season, fur-bearing mammals and nongame mammals for a term of one year from July 1st, or if issued after the beginning of that term, for the remainder of the term and to sell the raw fur of these mammals.

(b) This section shall become operative on July 1, 2013.

SEC. 7. Section 4008 of the Fish and Game Code is amended to read:

4008. (a) A trapping license shall not be renewed unless the applicant has submitted to the department a sworn statement showing the number of each kind of fur-bearing mammals and nongame mammals taken under the previous license and the names and addresses of the persons to whom the furs were shipped or sold.

(b) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 4008 is added to the Fish and Game Code, to read:

4008. (a) A trapping license shall not be renewed unless the applicant has submitted to the department a sworn statement showing the number of each kind of fur-bearing mammals and nongame mammals taken under the previous license. A class I trapping licensee shall provide the names and addresses of the persons to whom furs were shipped or sold.

(b) This section shall become operative on July 1, 2013.

SEC. 9. Section 4013 is added to the Fish and Game Code, to read:

4013. (a) A class II trapping licensee shall make a reasonable effort to determine whether dependent young are present within a home or business premise and to prevent orphaning young animals as a consequence of trapping and killing the mother. "Reasonable effort" is defined as taking steps to ascertain whether dependent young animals are present, including, but not limited to, any of the following:

(1) Using the natural history information that is included in the class II trapping license application examination, including consideration of the time of year.

(2) Requesting information from the potential client that would indicate whether dependent young animals are present, such as infant vocalization, sounds in the early morning or daytime in a localized area, and other sounds and activity commonly associated with young being present.

(3) Conducting a visual inspection of the area where sounds or activity have been reported when areas that may have well-hidden young can be thoroughly inspected visually.

(4) Monitoring an entry point with a paper block, tracking powder, surveillance, or recording device to determine whether the entry is disturbed on a daily basis, indicating a mother returning to her young.

(5) Using a heat sensor, portable motion-activated camera, or other monitoring, recording, surveillance, or other technology.

(6) Affixing a holding cage across an entry point of a structure to visually confirm whether a lactating female is present. Holding cages should be checked on a priority basis within the lawful 24-hour trap check requirement period pursuant to subdivision (e) of Section 4004. When feasible, double-opening holding cages should be set to identify whether a lactating female, sleeping separately from her young during weaning, is returning to her young during her natural foraging period. A single-opening holding cage should be removed if it is observed that a struggle to enter has occurred.

(7) Other methods of identifying whether young dependent animals are present.

(b) A lactating female animal shall not be killed, and traps shall not be set, except as provided in paragraph (6) of subdivision (a), if young animal sounds have been reported or it is known or suspected that dependent young animals exist on the premises and the young are inaccessible within the structure.

(c) If a licensee determines that young dependent animals are present, the licensee shall use lawful and humane methods that encourage the mother to relocate the young from the area from which the licensee is trying to remove the animals. One-way doors may be installed when the young are confirmed to be leaving and returning to the natal den, and the entry points may be sealed when monitoring confirms that the mother and young have left the natal den and no further activity is occurring.

(d) This section shall become operative on July 1, 2013.

SEC. 10. Section 4014 is added to the Fish and Game Code, to read:

4014. (a) Class II trapping licensees that provide trapping services for profit pursuant to Section 4152 or 4180 shall provide each client with a written contract prior to setting traps. A copy of each contract shall be retained for three years and made available upon request by the department.

(b) The written contract shall contain the following information and disclosures and shall be printed in at least 12-point typeface beginning on and continuing from the upper half of the first page of the contract:

California law requires consumers to be provided with the following information and disclosures prior to traps being set when hiring wildlife trapping services.

- Name and current contact information of the person setting a trap.
- The current year's trapping license number of the individual setting a trap and the business name under which the services are provided.
- "It is only lawful to trap wildlife for a profit in California if damage to crops or property has occurred. Animals posing a risk to human health or safety may only be taken by specified government officials (Sections 4011, 4152, and 4180 of the Fish and Game Code)."
- "This is a description of the property damage as confirmed by the licensed trapper through visual inspection:
_____."
- "This is the target animal or species responsible for the damage:
_____."
- "All furbearing and nongame mammals that are legal to trap must be immediately killed or released on site. Unless released, trapped animals shall be killed by shooting where local ordinances, landowners, and safety permit (Section 465.5(g)(1) of Title 14 of the California Code of Regulations)."
- "Nontarget animals are defined as those animals that become accidentally trapped, but are not responsible for the documented property damage. These animals must be immediately released."

- “Traps must be inspected and all animals removed at least once each day by the licensed trapper, the person hiring the trapper, or an agent thereof, pursuant to Sections 4152 and 4180 of the Fish and Game Code.”

- “This is the name and telephone number of the person charged with checking the traps each day:
_____.”

- “A reasonable effort must be made to prevent orphaning dependent animal young. It is prohibited to set traps for an animal when young are inaccessible or to kill a lactating female animal if young are inaccessible within a structure such as a home or business as a consequence of trapping and killing the mother (Section 4013 of the Fish and Game Code). A reasonable effort includes, but is not limited to, (a) requesting information about sounds and activity that would indicate young animals are present, (b) inspecting the area where sounds or activity is occurring, and (c) monitoring an access point for evidence of a mother returning daily to her young (Section 4013 of the Fish and Game Code).”

- “The following methods of dispatching trapped mammals are prohibited: drowning, chest crushing, or injection with any chemical not sold for the purpose of animal euthanasia (Section 4004 of the Fish and Game Code).”

- An identifying tag issued by the Department of Fish and Game is required to be affixed to every trap that is set (Section 465.5(g)(1) of Title 14 of the California Code of Regulations).

- A person shall not trap a bat. Bats may be excluded to protect property except when nonflying young bats are present or when bats are in torpor or hibernation. Bats may be excluded when necessary to protect human health or safety when nonflying young bats are present or when bats are in torpor or hibernation if preventing bats from entering the human-occupied interior area of the structure would impose a significant burden on the owner of the structure, and when the exclusion is otherwise in compliance with the provisions of subdivision (k) of Section 4004 of the Fish and Game Code.

- Printed name, address, and signature of client:
_____.

- Printed name and signature of licensed trapper who will be placing traps:
_____.

- The signed contract must be amended after the work is completed with the following language: The following is a true and accurate list of each animal (by species) trapped at this address, the date each animal was removed, and the final disposition of the removed animal.

Species Trapped: _____

Date: _____

Final disposition: _____

(c) This section shall become operative on July 1, 2013.

SEC. 11. Section 4155 is added to the Fish and Game Code, to read:

4155. The department may enter into cooperative agreements with a special district or a state or local agency having responsibility for levee maintenance for the purpose of controlling harmful nongame mammals to maintain irrigation, water supply, drainage, and flood control works.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2012

Governor